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NASA Procedural Requirements

NPR 2190.1

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2008**COMPLIANCE IS MANDATORY**[Printable Format \(PDF\)](#)**Subject: NASA Export Control Program****Responsible Office: Office of External Relations**[| TOC](#) | [Preface](#) | [Chp1](#) | [Chp2](#) | [Chp3](#) | [Chp4](#) | [Chp5](#) | [Chp6](#) | [Chp7](#) | [Chp8](#) | [AppdxA](#) | [AppdxB](#) |
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CHAPTER 2. GENERAL EXPORT CONTROL RESPONSIBILITIES FOR NASA PERSONNEL

2.1 GENERAL

No export or transfers of export-controlled items should be made to any foreign entity under any NASA program unless the exporter is confident that such exports or transfers are in conformity with approved contracts or international agreements and U.S. export control laws and regulations, as delineated in the EAR and ITAR. Further, NASA exports to foreign entities are only conducted in furtherance of NASA international agreements or contracts. Consultation with the NASA HEA, appropriate CEA, or counsel is recommended whenever there is doubt as to whether a proposed export or transfer is consistent with this general principle.

2.2 NASA HEADQUARTERS EXPORT CONTROL OFFICIALS

Summarized herein are the authorities and responsibilities of NASA Headquarters officials in NASA's Export Control Program. NASA export control and international technology transfer policy is formulated by the Headquarters Office of External Relations and the program is administered by Headquarters through its network of CEA's.

2.2.1 NASA HEADQUARTERS EXPORT ADMINISTRATOR (HEA)

The HEA is appointed by the Assistant Administrator for External Relations and is responsible for assessing and ensuring compliance of all NASA program activities and exports with U.S. export control laws and regulations. The HEA is also NASA's policy and licensing liaison with the U.S. Government's export control community. Specific HEA functions are delineated in sections 2.2.1.1 through 2.2.1.11.

2.2.1.1 Maintain a working knowledge of current EAR and ITAR provisions and requirements applicable to NASA programs.

2.2.1.2 Approve and maintain necessary NASA licensing documents regarding specific exports pursuant to NASA programs that are subject to the EAR and ITAR. All Commodity Jurisdiction (CJ) requests, Advisory Opinions (AO), Voluntary Disclosures, General Correspondence (GC), export and reexport license applications, and classification requests are coordinated and submitted through the HEA.

2.2.1.3 Serve as the NASA Headquarters point-of-contact for the DOC's Bureau of Industry and Security (BIS), the DOS's Directorate of Defense Trade Controls (DTC), and the DOD's Defense Trade and Security Administration (DTSA) and Defense Threat Reduction Agency (DTRA), and other appropriate Agencies for all international technology transfer/export control issues.

2.2.1.4 Manage NASA's annual ECP internal audits, including providing annual audit guidance to Centers, receiving, and reviewing audit reports. See Chapter 7: NASA Export Control Program Auditing.

2.2.1.5 Serve as NASA Headquarters point-of-contact for NASA Headquarters Program Executives, and the NASA CEA's. Coordinate with appropriate NASA officials on export control matters affecting NASA programs. Where the HEA, in consultation with these officials, determines that a proposed export or transfer would not be in conformity

with the EAR or ITAR, he or she shall have the authority to suspend such activity pending resolution with the concerned offices or agencies.

2.2.1.6 Attend, at least annually, export control-related training and coordinate the annual NASA Export Control and Foreign National Management Conference. Provide additional periodic training to NASA Headquarters and Center officials, as requested.

2.2.1.7 Develop, in consultation with appropriate NASA offices and officials, the NASA position on missile technology proliferation issues and participate in interagency organizations and meetings concerning missile technology transfers and proliferation as the NASA representative.

2.2.1.8 The HEA will also manage export control input to the NASA Foreign National Management System for access to NASA facilities by foreign nationals, in accordance with NPR 1371.2.

2.2.1.9 Obtain the participation of appropriate NASA offices and officials in training and in interagency reviews and assessments conducted by and with the Departments of State, Commerce, Defense, Treasury, and other appropriate agencies concerning technology transfers, export controls, missile technology proliferation, or other related matters affecting NASA programs.

2.2.1.10 Assemble and provide quarterly reports to DTC regarding NASA use of ITAR License Exemptions, in furtherance of the principles of 22 CFR §§ 123.22, 123.26, 125.6, and 126.4(d).

2.2.1.11 Develop and issue export compliance policies and regulation interpretations for NASA to CEAs.

2.2.1.12 Serve as the CEA for the NASA Management Office (NMO) at the Jet Propulsion Laboratory (JPL) in the absence of a formally appointed CEA at the NMO, and otherwise, assist the NMO in administering the NASA/Caltech contract in the area of export control.

2.2.2 HEADQUARTERS ASSOCIATE AND ASSISTANT ADMINISTRATORS

The Headquarters Associate and Assistant Administrators are responsible for ensuring that programs and projects within their organizations comply with all U.S. export control laws and regulations and the NASA ECP.

2.2.3 HEADQUARTERS EXPORT COUNSEL (HEC)

The HEC is appointed by the General Counsel and is responsible for providing legal guidance to the HEA in NASA export control matters under, inter alia, the EAR and the ITAR. Specific functions are delineated in sections 2.2.3.1 through 2.2.3.3.

2.2.3.1 Assist the HEA in reviewing specific exports and transfers under NASA programs, as appropriate.

2.2.3.2 Serve as the NASA Headquarters point-of-contact for Center Export Counsel on legal matters.

2.2.3.3 Keep abreast of statutory and regulatory developments in the U.S. export control system.

2.2.4 HEADQUARTERS PROGRAM AND PROJECT MANAGERS

Consistent with the requirements of NPR 7120.5, regarding Program and Project Management Processes and Requirements, all NASA Headquarters Program/Project Managers shall include "export control compliance planning and export control milestones" in their Program/Project plans with foreign party involvement to ensure that export control matters are considered and resolved in advance of prospective shipping or transfer dates. In addition, all NASA Headquarters Program/Project Managers shall, in consultation with the HEA, ensure that international activities under their direction include the following responsibilities set forth in sections 2.2.4.1 through 2.2.4.7.

2.2.4.1 Appropriate safeguards for commodities, technologies, and software exported or transferred pursuant to international agreements or contracts. All controlled technical data or commodities should be marked or identified in accordance with the Transfer of Goods and Technical Data Clause of the relevant international agreement (See NPR 1050.1, Section 3.5.10.3) or in accordance with the Transfer of Goods and Technical Data Clause of the relevant contract. When necessary and appropriate (and with the concurrence of the CEA or HEA), nondisclosure agreements may be used when foreign nationals are provided controlled technical data or commodities outside the scope of an international agreement or contract.

2.2.4.2 Provision of necessary technical information to the HEA to permit a sound determination as to the need for validated export licenses or other documentation in specific activities, and for the completion of such documentation, where necessary.

2.2.4.3 Where an international agreement governs a program or project whose activities involve exports or transfers to foreign entities, clear provision for such exports or transfers in the terms and conditions of the governing international agreement.

2.2.4.4 Adequate lead time for the submission, processing, and receipt of validated export licenses, where necessary.

2.2.4.5 A technology transfer control plan (TTCP), where appropriate, for programs with international involvement. See Section 3.5 and Appendix B.

2.2.4.6 Support export control training for program/project personnel working with foreign nationals and directing the work of others on the project. All personnel should participate in basic export control awareness training either via NASA's Site for On-Line Learning and Resources (SOLAR) or through on-site briefings.

2.2.4.7 Maintain oversight of NASA-directed contractor export activities, including concurrence on the use of NASA-authorized Exemptions, use of NASA-obtained IVLs, and requiring that copies of all export records (SEDs, GBLs, waybills, invoices) be submitted to NASA.

2.2.5 HEADQUARTERS MANAGERS, TRANSPORTATION PROGRAMS

The Manager, NASA Transportation Programs, shall, in consultation with the HEA, ensure that all exports and transfers of commodities, technologies, and software are accompanied by appropriate and accurate export control documentation, including validated licenses, marking statements or other authorizing documents, as needed, as well as SEDs and GBLs, in all appropriate cases. The Manager shall serve as the point-of-contact for the HEA on NASA transportation policies and practices.

2.3 CENTER EXPORT CONTROL OFFICIALS

This section summarizes the authorities and responsibilities of NASA Center officials in NASA's Export Control Program. Most transfers and exports subject to the NASA Export Control Program will likely be carried out at the NASA Centers implementing NASA's international activities.

2.3.1 CENTER DIRECTORS

Center Directors are responsible for ensuring that all projects under their purview comply with U.S. export control laws and regulations and this NPR. Center Directors appoint senior personnel as CEA's responsible for ensuring compliance of all Center activities with U.S. export control laws and regulations and this NPR. The Center Directors will also designate a qualified individual as an Export Control Auditor (ECA) to annually review the operation of the NASA Export Control Program at that Center, in accordance with NPD 2190.1 and Chapter 7 of this NPG. Appointments of CEA's and ECA's should be reported to the HEA in a timely manner.

2.3.2 CENTER EXPORT ADMINISTRATOR (CEA)

Center Directors will appoint a CEA whose responsibilities shall not include duties that could create a conflict of interest with the duties of the CEA. The CEA is responsible for assessing and ensuring compliance of all Center program activities with U.S. export control laws and regulations. Specifically, the CEA will:

2.3.2.1 Serve as the Center resident expert on all matters related to export control and international technology transfer, and serve as the principal Center point-of-contact with the HEA.

2.3.2.2 Maintain a thorough knowledge of current EAR and ITAR provisions and requirements, and all relevant NASA NPD/NPR requirements applicable to Center programs and activities, and assist in developing Center policy and procedures as appropriate.

2.3.2.3 Ensure the completion and maintenance (recordkeeping) of necessary licensing and/or License Exemption or Exception documents regarding specific transfers, pursuant to Center programs which involve exports or transfers subject to the EAR or ITAR. For exports of defense articles under ITAR License Exemptions, provide copies of all correspondence required by 22 CFR §§ 123.22(c), 123.22(d), 123.26, 125.6, or 126.4(d), as appropriate, to the HEA within 30 days of export.

2.3.2.4 Support and participate in the Center process for approving foreign visitors and hires, providing advice and guidance to the Center International Visit Coordinator and to program and project personnel who serve as sponsors for such visitors and hires, and providing assistance in the development of appropriate Technology Transfer Control Plans.

2.3.2.5 Assist program and project personnel in determining the appropriate export controls for publishing and disseminating scientific and technical information under the policy set forth in NPD 2220.5E, "Management of NASA Scientific and Technical Information (STI)" and NPR 2200.2A "Requirements for Documentation, Approval, and Dissemination of NASA Scientific and Technical Information. CEA's or their designated representative are required to sign Block VIII, "Export Control Review/Confirmation," on NASA Form 1676, NASA Scientific and Technical Document Availability Authorization (DAA).

2.3.2.6 Assist Center Contracting Officers and Contracting Officer Technical Representatives in procurement-related matters involving export control; e.g., providing guidance on entering into contracts with foreign entities, responding to contractor questions and requests, drafting of ITAR Exemption authorizations for use by contractors, and drafting of appropriate clauses in NASA solicitations and contracts.

2.3.2.7 Assist the Center Chief Information Officer (CIO) in effecting NASA and local policy on placing information on NASA Web sites.

2.3.2.8 Assist the Center Software Release Authority in making determinations as to export control restrictions, per NPD 2210.1 and NPR 2210.1.

2.3.2.9 Coordinate with Center Export Counsel, Transportation Officers, and Program/Project Managers, as appropriate, on export control matters affecting Center programs and activities. Advise Center Transportation Officers on questions related to international shipments (including imports of foreign-origin commodities). Where the CEA, in consultation with these officials, determines that a proposed export or transfer would not be in conformity with NASA policy, the EAR or the ITAR, the CEA shall have the authority to suspend such activity pending resolution with the concerned offices or agencies.

2.3.2.10 Attend the annual NASA Export Control Program Conference and at least one other export control training session annually, and will establish an annual Center training plan for responsible Center personnel and arrange for, or provide, training.

2.3.2.11 Review and consult with the HEA on all Center commodity jurisdiction, classification, and licensing requests for Center projects. After local approval, route those requests to the HEA for formal transmittal to, and processing by, BIS or DTC.

2.3.2.12 Serve as the interface with the HEA for review and comment on contractor requested export license applications related to NASA/Center programs/projects. The purpose of a review is to:

1. Determine if the industry applicant is accurately representing the NASA program and NASA involvement.
2. Determine if the work is being done under a NASA international agreement or with an industrial contractor of the NASA foreign partner.
3. Determine if an Exemption or Exception applies for exports in accordance with an international agreement.
4. Verify that NASA contract direction to industry is within the scope of the license activities.
5. Determine any feedback or reporting requirements the program desires to add to the license conditions.

2.3.2.13 Serve as the interface with the HEA for review and comment on Committee on Foreign Investment in the United States (CFIUS) cases related to Center programs or NASA contractors.

2.3.2.14 Serve as the Center export control point-of-contact for GAO and IG audits related to export control matters.

2.3.2.15 Periodically disseminate export control information and guidance to appropriate Center personnel.

2.3.2.16 Review and ensure Center followup and closeout on recommendations from the annual NASA Export Control Program audit, and as appropriate, on GAO and IG audits related to export control.

2.3.2.17 Establish contacts with Center contractors involved in Center programs with international content to share information and to work issues related to licenses and/or granting or use of NASA-authorized ITAR Exemptions.

2.3.2.18 As applicable, assist the International Space Station (ISS) program in performing EAR-required audits and reviews of NASA contractors authorized to use the BIS-approved NASA International Cooperative Licence (ICL).

2.3.2.19 Maintain, electronically or in hard-copy, a reference library of relevant policies, regulations, and, to the maximum extent practicable, the international agreements governing the programs and projects for which exports and transfers are required.

2.3.3 CENTER EXPORT COUNSEL

The Center Export Counsel (CEC) is appointed by the Center Chief Counsel and is responsible for providing legal guidance to the CEA in NASA export control matters under, inter alia, the EAR and the ITAR. Specific responsibilities are:

2.3.3.1 Assist the CEA in reviewing specific exports and transfers under NASA programs.

2.3.3.2 Keep abreast of statutory and regulatory developments in the U.S. export control system.

2.3.3.3 Guide the CEA in appropriate interpretation and implementation of export control laws and regulations. Consult with HEC to ensure Agencywide consistency of interpretation.

2.3.4 CENTER PROGRAM AND PROJECT MANAGERS

Consistent with the requirements of NPR 7120.5, regarding Program and Project Management Processes and Requirements, all NASA Program and Project Managers shall include "export control milestones" in their Program and Project plans with foreign party involvement and other activities as appropriate, to ensure that export control matters are considered and resolved in advance of prospective shipping or transfer dates. In addition, all NASA

Center Program and Project Managers shall, in consultation with the appropriate CEA, ensure that international activities under their direction include the following responsibilities:

2.3.4.1 Provide appropriate safeguards for commodities, technologies, and software exported or transferred pursuant to international agreements or contracts. All controlled technical data or commodities shall be marked or identified in accordance with the Transfer of Goods and Technical Data Clause of the relevant international agreement (See NPR 1050.1, Section 3.5.10.3) or in accordance with the Transfer of Technical Data Clause (e.g., NFS 1852-227-87) of the contract. When necessary and appropriate (and with the concurrence of the CEA or HEA), nondisclosure agreements may be used when foreign nationals are provided controlled technical data or commodities outside the scope of an international agreement or contract.

2.3.4.2 Provide necessary technical information to the CEA to permit a sound determination as to the need for validated export licenses or other documentation in specific activities and for the completion of such documentation, where necessary.

2.3.4.3 Provide adequate lead time for the submission, processing, and receipt of validated export licenses, where necessary.

2.3.4.4 Maintain oversight of NASA-directed contractor export activities, including concurrence on the use of NASA-authorized Exemptions, use of NASA-obtained IVL's, and require that copies of all export records (SED's, GBL's, waybills, invoices) be submitted to NASA. See Section 3.7 Reporting.

2.3.4.5 Program and project managers shall assure that NASA only transfers those technical data (including software) and hardware necessary to fulfill NASA responsibilities under international agreements and contracts. If foreign contracts are anticipated, program and project managers shall ensure that there is appropriate Headquarters review, in accordance with NFS 1825.7002, and that such contracts are prepared with appropriate export control provisions. Contracts with U. S. industry that support an international program or project must also include appropriate provisions related to export control requirements.

2.3.4.6 Support export control training for program and project personnel that are working with foreign nationals and directing the work of others on the project. All personnel shall participate in basic export control awareness training either via SOLAR or through on-site briefings.

2.3.4.7 Assist in the timely review of industry export licenses related to NASA programs and projects. Verify program description and characterization of NASA and contractor involvement.

2.3.4.8 Include an appropriate technology transfer control plan (TTCP) for programs with international involvement. See Section 3.5 of this NPR for more information about TTCP's.

2.3.5 CENTER TRANSPORTATION OFFICERS

NASA Transportation Officers at each Center shall, in consultation with the CEA, ensure that all exports and transfers of commodities, technologies, and software under Center programs are accompanied by appropriate and accurate export control documentation, including validated export licenses, marking statements, GBLs, or other authorizing documents, as needed, as well as SED's in all appropriate cases. Exports and transfers required by Headquarters Program or Project Managers will be handled through the Goddard Space Flight Center (GSFC) Transportation Officer. The GSFC Transportation Officer shall consult with the GSFC/CEA and the HEA, as appropriate, for such Headquarters exports and transfers.

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